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May 8, 2024

BY ECF

The Honorable Judge Kenneth M. Karas
United States District Court
Southern District of New York
300 Quarropas Street, Chambers 533
White Plains, New York 10601-4150

RE: Kenwood Commons, LLC, v. Guild Investment Group, LLC (Case No. 23 CV 02288 (KMK)); On Appeal From In re Kenwood Commons, LLC, Debtor; U.S.B.C. S.D.N.Y. (Case No. 22-35169 (SHL))

Dear Honorable Judge Karas,

We are counsel for Fred Stevens (the "Trustee" or the "Appellant"), Chapter 7 Trustee of the estate of Kenwood Commons, LLC (the "Debtor"), which case is pending before the Honorable Judge Sean H. Lane, in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"). We write to the Court with regard to the above-referenced appeal of a Bankruptcy Court decision (the "Appeal").

By way of background, the Debtor filed a bankruptcy petition under Chapter 11 of the Bankruptcy Code on March 28, 2022 (the "Petition Date"). The Debtor continued to be a debtor-in-possession, operating and maintaining its own business and property until July 7, 2023 (the "Conversion Date"), when the Debtor's case was converted from Chapter 11 to Chapter 7 and Mr. Stevens was appointed as the Debtor's Chapter 7 Trustee. After the Petition Date but before the Conversion Date, the Bankruptcy Court entered the *Order Granting Application by Prepetition Secured Lender for an Order Authorizing it to Continue State Court Foreclosure Action in Accordance with 11 U.S.C. § 362(d)(3)*, dated February 7, 2023 (the "Bankruptcy Court Order") [Bankr. Dkt. 90]. On or around February 21, 2023, the Debtor filed a notice of appeal of the Bankruptcy Court Order, commencing the instant Appeal [Bankr. Dkt. 94]. According to the docket for this Appeal, it appears that both parties had fully briefed the Appeal by June 13, 2023, prior to the Trustee's appointment.

Upon the request of the Trustee, the oral argument on the Appeal was adjourned from January 11, 2024 to March 14, 2024 and is now set for oral argument on May 13, 2024 (the "Hearing"). The Trustee's adjournment requests were premised on a process undertaken by the Trustee in the Debtor's bankruptcy case to address the disposition of the Debtor's litigation claims, including this Appeal. More specifically, on March 4, 2024, the Trustee filed the

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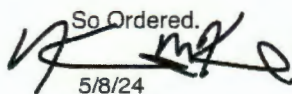
Trustee's Motion to Sell Estate's Claims and Rights of Action, or Abandon Such Claims and Rights of Action, and to Dismiss All Pending Adversary Proceedings without Prejudice [Bkr. Dkt. No. 247] (the "Sale Motion"). In the Sale Motion, the Trustee sought, *inter alia*, to dismiss the instant Appeal. The Trustee received and accepted a qualified offer to purchase the assets along the terms set forth in the Sale Motion. On April 11, 2024, the Bankruptcy Court held a hearing on the Trustee's Sale Motion, which was approved over objection. On April 17, 2024, the Bankruptcy Court entered the *Order Authorizing the Trustee to Sell the Estate's Right, Title, and Interest In and to All Claims and Rights of Action Against Various Parties Pursuant to 11 U.S.C. § 363(b), or, if No Parties Submit Acceptable Offers to Purchase Such Claims, Approving the Trustee's Abandonment of All Such Claims and Any Remaining Property of the Estate Pursuant to 11 U.S.C. § 554(a)* [Bkr. Dkt. No. 258] (the "Sale Order"). The Sale Order became final and unappealable on May 1, 2024.

On May 2, 2024 at 12:01 a.m. (EST), the Trustee closed on the Sale⁴ of the Estate Claims to Guild Ventures LLC (the "Purchaser") as authorized by the Sale Order immediately upon dissolution of the stay of the Sale Order pursuant to Fed. R. Bankr. P. 6004(h). Consequently, the Purchaser is now the owner of all claims asserted by the Debtor or its bankruptcy estate in the Adversary Proceedings, among others, including the claims underlying this Appeal. The Trustee has submitted a request to the Bankruptcy Court to close all Adversary Proceedings and matters of record related to claims now owned by the Purchaser and is awaiting entry of that Dismissal Order.

Therefore, the Appellant respectfully requests that the Hearing be removed from the Court's docket and hearing calendar and the Trustee will take steps to formally withdraw or dismiss the Appeal.

We thank the Court in advance for its attention to this matter and consideration of this request. Please contact the undersigned counsel if the Court has any questions regarding this Appeal or the request set forth herein.

Granted. The Trustee is asked to file the withdrawal/dismissal of the appeal by 5/24/24.

So Ordered.

5/8/24

Respectfully,
/s/ **Kathleen Aiello**
Kathleen Aiello

cc (by ECF and Email):

Fred Stevens, Chapter 7 Trustee
Joseph Moldovan, Attorney for Appellee
David Kozlowski, Attorney for Appellee
Gary D. Bressler, Counsel for United States Fire Insurance Company
Michael R. Morano, Counsel for United States Fire Insurance Company